

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ABINGDON, VA  
FILED

NOV 09 2010

JULIA C. DUDLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

LENA SMITH O/B/O JAMES B.  
SMITH,

Plaintiff,

v.

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

)  
)  
) Case No. 2:09CV00038  
)

) **JUDGMENT**  
)

) By: James P. Jones  
) United States District Judge  
)  
)

It appearing that no objections have been timely filed to the Report filed October 15, 2010, setting forth the findings and recommendations of the magistrate judge, it is **ADJUDGED AND ORDERED** as follows:

1. The Report and its findings and recommendations are wholly **ACCEPTED** and **APPROVED**;
2. The motions for summary judgment by the parties are **DENIED**;
3. The final decision of the Commissioner of Social Security is **VACATED** and this action is **REMANDED** to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further consideration in accord with the Report; and
4. The clerk will close this case.

ENTER: November 9, 2010

*[Signature]*  
\_\_\_\_\_  
United States District Judge